

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF SOUTH CAROLINA

Kris Sarayn Kollyns,)	C/A No.: 3:06-1490-JFA-JRM
)	
Plaintiff,)	
vs.)	O R D E R
)	
Dr. Selman Watson; Nurse Fraser; Martha)	
Williams; Dr. Jose Chavez; Investigator)	
Rayford Miller; Fred Pauer; Dr. Nicholas)	
DePace (in their individual capacities);)	
Robert Stevenson (SCDC); Holly Scaturo)	
(in their personal capacities); and the)	
South Carolina Department of Mental Health)	
(for injunctive relief),)	
)	
Defendants.)	
)	

The *pro se* plaintiff filed this action pursuant to 42 U.S.C. § 1983 alleging various violations of his Constitutional rights. On November 21, 2007, the defendants filed a Suggestion of Death, pursuant to Rule 25(a)(2) of the Federal Rules of Civil Procedure, noting that the plaintiff died on or about November 10, 2007.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Recommendation suggesting that this action be dismissed pursuant to Rule 25 as more than 90 days have passed since the defendants filed the Suggestion of Plaintiff's Death. Since the filing of the Suggestion of Death and the Report, there has been no motion to substitute a party for the plaintiff.

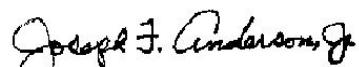
In the Report, the Magistrate Judge has advised the parties of their right to file objections to the Report. Neither party filed objections² to the Report.

After carefully reviewing the applicable law, the record in this case, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

Accordingly, this action is dismissed without prejudice and defendants' motion for summary judgment is moot.

IT IS SO ORDERED.

April 17, 2008
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge

² Under 28 U.S.C. § 636(b)(1), the district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge's Report to which objections have been filed. The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to timely file specific written objections to the Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).